

EXHIBIT 9

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1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 MARVEL WORLDWIDE, INC.,)
MARVEL CHARACTERS, INC.,)
5 and MVL RIGHTS, LLC,)

6 Plaintiffs,)

7 vs.)

Case No.

10-141-CMKF

8 LISA R. KIRBY, BARBARA J.)
KIRBY, NEAL L. KIRBY, and)
9 SUSAN N. KIRBY,)

10 Defendants.)
-----)

11 **REVISED**

12 PARTIALLY CONFIDENTIAL
13 PURSUANT TO PROTECTIVE ORDER
14 (Pages 66 through 70)

15 VIDEOTAPED DEPOSITION OF LAWRENCE LIEBER
16 New York, New York
17 January 7, 2011
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19
20
21
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23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR
25 JOB NO. 35338

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January 7, 2011

Partially confidential videotaped deposition of LAWRENCE LIEBER, held at Weil Gotshal & Manges, 767 Fifth Avenue, New York, New York, before Kathy S. Klepfer, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, Certified Livenote Reporter, and Notary Public of the State of New York.

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ALSO PRESENT:

ELI BARD, Marvel Entertainment

MATTHEW SMITH, Legal Video Specialist

1
2
3 IT IS HEREBY STIPULATED AND
4 AGREED, by and between the attorneys for
5 the respective parties herein, that the
6 filing and sealing be and the same are
7 hereby waived.

8 IT IS FURTHER STIPULATED AND
9 AGREED that all objections, except as to
10 the form of the question, shall be
11 reserved to the time of the trial.

12 IT IS FURTHER STIPULATED AND
13 AGREED that the within deposition may be
14 sworn to and signed before any officer
15 authorized to administer an oath, with
16 the same force and effect as if signed
17 and sworn to before the Court.
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25

1 L. Lieber

2 I also, you know, I also, in doing
3 this, I had to use the sense of the visual.
4 Comics are different from novels in that it's a
5 visual medium, so you have to be -- know that.
6 And it's also sequential, so the artist has to
7 have a sense of sequence and story. But both
8 are doing them, you know, about playing a part.

9 But a page of script would have panel
10 one, panel two, panel three. Didn't have to
11 have six panels. Sometimes if there was a lot
12 of action, you might play up that panel and only
13 have five, let's say, one panel across.

14 Q. Okay. So it wouldn't look like -- it
15 wouldn't just be a short story, it would be --
16 it would describe the --

17 A. Oh, no. It would be panel by panel.
18 No. No.

19 Q. And where would -- how would you get
20 the idea for the story? How would you know what
21 to write about?

22 A. Well, my brother made up the plot and
23 gave me a synopsis.

24 Q. And your brother is?

25 A. Stan Lee. I'm sorry.

1 L. Lieber

2 Q. And did all of the ideas for stories
3 come from Stan Lee or was there any other way
4 you would get ideas?

5 A. No, they all came from Stan Lee.

6 Q. Did you ever work on -- did you ever
7 get artwork that you would then write the
8 dialogue for, or did you always write the script
9 first?

10 A. I always wrote the script first,
11 except later on, I --

12 Q. We don't have to worry about -- I'm
13 focusing you, I'm sorry, I'm focusing you on the
14 period 1958 to 1965.

15 A. I would think during that period I
16 always did, but there was a time -- but I don't
17 know when it was, that's why I started to say
18 that -- when I once or twice did it differently.
19 But I always wrote a script here.

20 Q. Okay.

21 A. I always wrote the script.

22 Q. Who came up with the ideas for the
23 characters that would be in the story?

24 A. Stan. Well, wait a minute. You say
25 the characters?

1 L. Lieber

2 Q. Yes.

3 A. Stan. Yes. Yes. Stan, yes. Yes,
4 sure.

5 Q. Who was responsible for giving you the
6 assignment to write a particular script or a
7 particular --

8 A. Stan.

9 Q. When he would give you an assignment,
10 did you have a deadline or something that you
11 had to get it back by a certain time?

12 A. I remember -- well, I knew I had to do
13 it fast, and the only thing I remember a little
14 more vividly is with I think it was Jack Kirby
15 where he would say Jack needs work and he was
16 concerned about getting it to him. He said,
17 "Write this," and, you know, sometimes I would
18 write, and if it was weekend, I wouldn't wait
19 until Monday to bring it into the office to give
20 it to Stan, but I remember going over to the
21 West Side, the main post office at night and
22 mailing it.

23 And I was learning to write in the
24 early years so I wasn't too fast, and Jack was
25 very fast and a wonderful, wonderful artist. So

1 L. Lieber

2 But writing was a little different.
3 Stan had his own way of writing and his own --
4 using as few words as possible, making them
5 count, and he -- he was a good editor. So I
6 learned from him. I learned well enough that I
7 was able to give a course some years later for
8 him.

9 Q. You mentioned that Stan would give you
10 the synopsis or the plot. How? How would he
11 give that to you? Would he --

12 A. As far as I remember, it was -- you
13 mean written. He would give it written to me.

14 Q. And then after you did the assignment
15 and you -- what would happen? Then you would
16 bring it to the office?

17 A. I would grow to the office with it.
18 Yeah, I would bring it to the office.

19 Q. And what would happen next?

20 A. He would go over it and, as I said, if
21 it were in the early years, he might correct or
22 change a line or two. But he always used it.
23 He, he -- I never had to, you know, go home and
24 do it again. He was very easy, he was showing
25 me. He said, "Oh, you could have said this.

1 L. Lieber

2 You could have done that," and he'd make some
3 little corrections. And as time went on, he had
4 fewer to make.

5 Q. Do you know what would happen to the
6 script after Stan went over it and made whatever
7 changes?

8 A. Yeah. It would be sent to the artist,
9 I would guess.

10 Q. Okay.

11 A. Whether it was, you know, the various
12 artists, yeah.

13 Q. Did you ever -- did you have any
14 contact with the story after you turned it in
15 and made whatever changes?

16 A. No.

17 Q. Did you ever have discussions with
18 artists about the stories or the scripts?

19 A. No.

20 Q. You mentioned Jack Kirby. Did you
21 ever have any interactions with Jack Kirby when
22 he was drawing scripts that you had done?

23 MR. TOBEROFF: Assumes facts.

24 A. What's that?

25 Q. Let me take a step back then.

1 L. Lieber

2 Do you know which artists were
3 assigned to draw some of the scripts that you
4 did?

5 A. Yes. At the time, I mean, I knew
6 which artists were working.

7 Q. Okay.

8 A. There was Jack Kirby. There was Don
9 Heck. And I didn't write the stories. Stan
10 liked -- there was usually one story for Ditko
11 in the books and Stan liked to write that
12 himself, so he made it up and he worked with
13 Ditko.

14 And I'm not certain if that was in all
15 the books or just one book. It might have been
16 one. But I remember Don Heck and there might
17 have been some others who came and went, I don't
18 know. Jack you usually did the main story in
19 the book, the first story, and there might have
20 been Paul Reinman. I'm not sure. Might have --
21 I think he was an inker, but he might have
22 penciled, too, occasionally.

23 Q. Let's talk about some specific books
24 for a few minutes. Are you familiar with the
25 book Thor?

1 L. Lieber

2 you missed Milly when she was handing out the
3 checks, then you went to bookkeeping and went
4 over to Milly and she opened her drawer and
5 said, "Here's your check." But if you didn't
6 come into the office, I don't remember if they
7 sent them to you. Maybe they then sent them to
8 you at home. I -- I don't recall getting it at
9 home. I know I got paid.

10 Q. That was my next question. Did you
11 get paid for all the work you did for Marvel?

12 A. Yes. Yes.

13 MR. TOBEROFF: Objection.

14 Q. Do you know what Milly's last name
15 was? Do you remember?

16 A. No.

17 Q. Okay.

18 A. No.

19 Q. When you received -- were you always
20 paid by check from Marvel?

21 A. You mean as opposed to cash?

22 Q. Yes.

23 A. No. It was always check. Always
24 check.

25 Q. Do you recall --

1 L. Lieber

2 MR. TOBEROFF: Just a second. Could
3 you do me a favor and just pause before
4 answering a question so I have room to
5 object before? I'm supposed to object
6 before you answer.

7 THE WITNESS: Yes.

8 MR. TOBEROFF: I'm supposed to object
9 before you answer.

10 THE WITNESS: Okay.

11 MR. TOBEROFF: Sometimes if you answer
12 too rapidly, I would be talking over you. I
13 don't want to do that.

14 THE WITNESS: Okay.

15 MR. TOBEROFF: Thank you.

16 BY MS. SINGER:

17 Q. When you would receive a check from
18 Marvel, was there anything printed on the check
19 besides, you know, your name and the amount?

20 MR. TOBEROFF: Objection.

21 A. Yes.

22 MR. TOBEROFF: Go ahead.

23 Q. You can answer.

24 A. I paused.

25 Q. Good work.

1 L. Lieber

2 Was there anything, just to be clear
3 so for the record --

4 A. Yes, there was something printed on
5 the back.

6 Q. And what was printed on the back of
7 the check?

8 A. I don't recall the exact words, but
9 the gist of it was that I was giving up all
10 rights to it, that the work, you know, now is
11 with the company and -- and I don't remember the
12 exact wording, but I think it was something
13 "giving up your rights" or "all rights." That
14 was the way I interpreted it anyway. I didn't
15 think much about it because I felt the only
16 reason I was doing it was to get paid, you know.

17 Q. And do you recall that those words or
18 something to that effect being on the back of
19 every check you got from Marvel for that period
20 from 1958 to '65?

21 MR. TOBEROFF: Objection as to form.

22 A. I don't know the year, you know, all
23 the years and I don't know if it was. I
24 remember in the early years seeing it.
25 Afterwards, I had been so used to it that I

1 L. Lieber
2 wouldn't have noticed if it was still there or
3 not. I didn't think anything of it, so I don't
4 remember if it lasted until '65 or when it
5 stopped or occasionally or whatever.

6 Q. Do you have any recollection that it
7 stopped at some point?

8 A. No. No.

9 Q. Let's talk about The Rawhide Kid. Did
10 you have any involvement in The Rawhide Kid?

11 A. Oh, yes. Yes. I wrote The Rawhide
12 Kid and I drew it. It had been written, yeah,
13 before me by Stan and Jack Kirby.

14 Q. So did you write the first issue of
15 The Rawhide Kid?

16 A. No. No. No. No, I -- I, no, it --
17 it came when Jack moved on to doing
18 super-heroes.

19 Q. What -- how did you come to work on
20 Rawhide Kid?

21 A. I don't remember whether I initiated
22 it or Stan offered it to me. I -- I liked -- it
23 was an opportunity for me to write and draw the
24 same strip, and that appealed to me. I felt I
25 would have more control over it. And at that

1 L. Lieber

2 MS. SINGER: 19 out of 20 -- 19 out of
3 30, I'm sorry. The very last line on page
4 19.

5 MR. TOBEROFF: "Getting back to the
6 writing aspect"?

7 MS. SINGER: Yes, carrying over.

8 Q. And you say, "They were full scripts
9 and I didn't think of Jack when I wrote it at
10 all. All I thought of was will Stan like this
11 or will he tell me, 'Larry, this isn't good, you
12 can't do this.' I didn't want to hear something
13 like that."

14 Is that consistent with your
15 recollection?

16 A. Yes.

17 Q. There's a reference here to "Marvel
18 style." Do you know what that is?

19 A. I believe so. You want me --

20 Q. What's your understanding of what
21 Marvel style was?

22 A. The Marvel style is what Stan did, or
23 I think I said in the interview it began around
24 the time of the super-heroes and with Jack
25 Kirby, perhaps with others, I don't know. Jack

1 L. Lieber

2 might have been -- I think Jack was the first.
3 And where he would discuss a story or a plot
4 with the artist and the artist would write it --
5 not write, I'm sorry. The artist would lay it
6 out and draw it with enough knowledge about what
7 the story is and leave room for dialogue to come
8 later.

9 Q. And the "he" there was Stan Lee?

10 A. I'm sorry?

11 Q. The "he" when you said "he"?

12 A. Stan Lee. It would be Stan Lee and
13 the artist.

14 Q. Okay.

15 A. Yeah, that would be -- and I think
16 that was called the Marvel style.

17 Q. The way -- when we talked about the
18 first script for Iron Man and the first script
19 for Thor and the first script for Ant-Man, were
20 those Marvel style?

21 A. No.

22 MR. TOBEROFF: Objection to form.

23 Q. Was the first scripts for Marvel --
24 strike that. Let me start again.

25 Were the scripts that you wrote for

1 L. Lieber

2 A. No.

3 Q. Did anyone at Marvel ever promise you
4 more work or more money or anything if you gave
5 a deposition or testified?

6 A. No.

7 Q. You spoke with Mr. Toberoff about a
8 zombie story, a plot that you gave them, and
9 there was an editor who made you redo it a
10 couple of times. Who was that editor?

11 A. Marv Wolfman.

12 Q. Do you know approximately when that
13 was?

14 A. It was -- I did the -- I'm trying -- I
15 figure in the '70s, probably, in the '70s. It
16 was after I finished The Rawhide Kid, which I --
17 I don't know when it was, and sometime after
18 that.

19 Q. Okay. Other than that, that zombie
20 story with Mr. Wolfman, did you ever -- strike
21 that. For the period 1958 to 1965, did you ever
22 submit any work to Marvel that hadn't been
23 assigned to you?

24 A. No. No.

25 MS. SINGER: I have no further

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1 L. Lieber

2 MS. SINGER: Okay.

3 THE VIDEOGRAPHER: This concludes tape
4 number 3 of 3 of the videotaped deposition
5 of Lawrence Lieber. The time is 2:24 P.M.
6 We are now off the record.

7 oOo

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LAWRENCE LIEBER

19

20 Subscribed and sworn to
before me this 14 day
21 of February 2011.

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25

Andrew Loh
Notary Public, State of New York
No. 02108226718
Qualified in New York County
Commission Expires August 16, 2018

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L. Lieber

CERTIFICATE

STATE OF NEW YORK)

: ss

COUNTY OF NEW YORK)

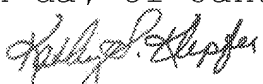
I, Kathy S. Klepfer, a Registered Merit Reporter and Notary Public within and for the State of New York, do hereby certify:

That LAWRENCE LIEBER, the witness whose deposition is herein before set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that neither the deponent nor a party requested a review of the transcript pursuant to Federal Rule of Civil Procedure 30(e) before the deposition was completed.

In witness whereof, I have hereunto set my hand this 20th day of January, 2011.

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L. Lieber

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L. Lieber

NAME OF CASE: Marvel v. Kirby, et al.

DATE OF DEPOSITION: January 7, 2011

NAME OF WITNESS: Lawrence Lieber

Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

Page 10 Line 15 Reason 2
 From YOUR--YOUR STORIES, YOUR LETTERS to YOUR LETTERS IN THE
IN THE

Page 12 Line 25 Reason 3
 From STAN LEE. I'M SORRY. to STAN LEE

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 From I WOULD GROW TO THE... to I WOULD GO TO THE...

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Page 18 Line 10 Reason 1,2
 From LIKED--THERE WAS USUALLY, to THERE WAS USUALLY ONE STORY
FOR DITKO

Page _____ Line _____ Reason _____
 From _____ to _____

Page _____ Line _____ Reason _____
 From _____ to _____

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